

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 07-21466-C-7
)	
EVELYN R. SANTIAGO)	MC No. MDE-1
)	
Debtor.)	
_____)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY NOT INTENDED FOR
PUBLICATION**

These findings of fact and conclusions of law, which are not intended for publication, are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtor filed her voluntary chapter 7 petition on March

1 5, 2007. She scheduled real property commonly known as 7853
2 Sayonara Drive, Citrus Heights, CA 95610 ("property") as
3 property of the estate. The first meeting of creditors was
4 held on April 12, 2007. The chapter 7 trustee has not yet
5 filed a report. Debtor was discharged from all dischargeable
6 debts on June 19, 2007.

7 On June 12, 2007, America's Servicing Company, et al.
8 ("movant") filed a motion, notice, and declaration requesting
9 that this court vacate the automatic stay to permit movant to
10 foreclose upon the property. The fair market value of the
11 property is approximately \$510,000.00. Movant has a lien on
12 the property in the approximate amount of \$461,293.99. There
13 are other liens against the property in the approximate amount
14 of \$72,000.00.

15 The trustee filed a Notice of Non-Opposition to the
16 motion on June 20, 2007, stating he had no opposition to the
17 relief requested.

18 The parties have consented to taking evidence by
19 affidavit and have not demonstrated that there is any disputed
20 material factual issue that would warrant an evidentiary
21 hearing. See L. Bankr. R. 9014-1(f)(1). The evidentiary
22 record is closed. Id.

23 Upon review of the record, the court determined that
24 the written record was adequate and that no oral argument is
25 necessary.

26 Conclusions of Law

27 The automatic stay of acts against debtor in personam
28

1 expires when the debtor is granted a discharge. 11 U.S.C.
2 § 362(c)(2)(C). Acts against property of the estate remain
3 stayed until the earliest of the time when the bankruptcy case
4 is closed, dismissed, or the property ceases to be property of
5 the estate. 11 U.S.C. § 362(c). The automatic stay may be
6 terminated earlier if debtor fails to protect the secured
7 party's interest adequately, § 362(d)(1), and, with respect to
8 a stay of an act against property, debtor does not have equity
9 in the property, § 362(d)(2)(A), and the property is not
10 necessary to an effective reorganization. 11 U.S.C. §
11 362(d)(2)(B). The issue of whether the property is necessary
12 to an effective reorganization is not considered in a chapter 7
13 case because no reorganization is contemplated in a chapter 7
14 case.

15 Although the debtor does not appear to have any equity
16 in the property, since the debtor was granted a discharge, the
17 automatic stay has expired as to the debtor. Thus, the motion
18 insofar as it is directed at the interest of the debtor is moot
19 and will be denied.

20 However, the motion will be granted as to the interest
21 of the trustee.

22 An appropriate order will issue.

23 Dated: July 13, 2007

24 
25 _____
26 UNITED STATES BANKRUPTCY JUDGE
27
28

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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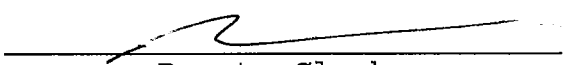
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Dated: 7/16/07


Deputy Clerk

R. Lopez